



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,580	05/14/2004	Paul K. MEEKER	43064-0030	3579
24115 7590 05/29/2007 BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP 3800 EMBASSY PARKWAY SUITE 300 AKRON, OH 44333-8332			EXAMINER EDELL, JOSEPH F	
			ART UNIT 3636	PAPER NUMBER
			NOTIFICATION DATE 05/29/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RLEAR@BDBLAW.COM
LWAGNER@BDBLAW.COM
IPDOCKETAKRON@BDBLAW.COM

Office Action Summary

Application No.

10/709,580

Applicant(s)

MEEKER ET AL.

Examiner

Joseph F. Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-27 and 29-40 is/are pending in the application.
- 4a) Of the above claim(s) 33-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-27, 29-32 and 38-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18 May 2007 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7, 8, 10-20, 22-27, 29, 30, 32, and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,854,639 to Burleigh et al. in view of U.S. Patent No. 6,478,377 B2 to Kassai et al.

Burleigh et al. disclose a car seat that is basically the same as that recited in claims 1-5, 7, 8, 10-20, 22-27, 29, 30, 32, and 38-40 except indentations are not specified as extending into the middle section of the movable component, as recited in the claims. See Figures 5-8 of Burleigh et al. for the teaching that car seat has a seat

Art Unit: 3636

member 72 (see Fig. 5), a back member 78 connected to the seat member, a fixed component (see Diagram A below) of the back member including a flat middle section, a pair of raised contoured sides 80,82 (see Fig. 6), and a contoured surface in cross-section, a movable component 90 of the back member including raised contoured sides 92,94, capable of movement from a retracted position to an extended position, and overlapping the fixed component, an upper headrest area of the movable component (see Diagram A) with a flat middle section, a pair of forward extending wings, and an upper headrest width, and an opposed lower area (see Diagram A) separated from the upper headrest area by a pair of fixed size laterally and inwardly-projecting indentations 126,128 (see Fig. 8 and Diagram A) to accommodate a shoulder belt, fixedly connected to the upper headrest area, including a surface and a contour in cross-section mating the contoured surface of the fixed component, and a lower area width wherein the upper headrest width and the lower area width being essentially the same.

Burleigh et al. show a back member wherein the upper headrest area being in invariant fixed relationship to the lower area and separated by the indentations (see Diagram A), the movable component is attached in front of the fixed component, the fixed and movable components being in overlapping essentially gapless and contacting relationship with respect to each other with sliding movement between the components at both the retracted and extended positions (sliding movement of shoe parts 118 along tracks 96,98 - see Fig. 6 - allowing for the gapless relationship), the sliding movement between the components does not increase a size of the indentations between the upper headrest area and lower area, and means for selectively positioning and retaining

Art Unit: 3636

the movable component relative to the fixed components (the shoe parts and tracks are functionally equivalent to the positioning and retaining structure described in the instant application) that permits incremental discrete movement or infinitely variable movement and is a pair of outwardly biased shafts 118 capable of locking, and telescoping movement of the movable component relative to the fixed component which is fixed by a length of longitudinal channels 96,98 in the fixed component.

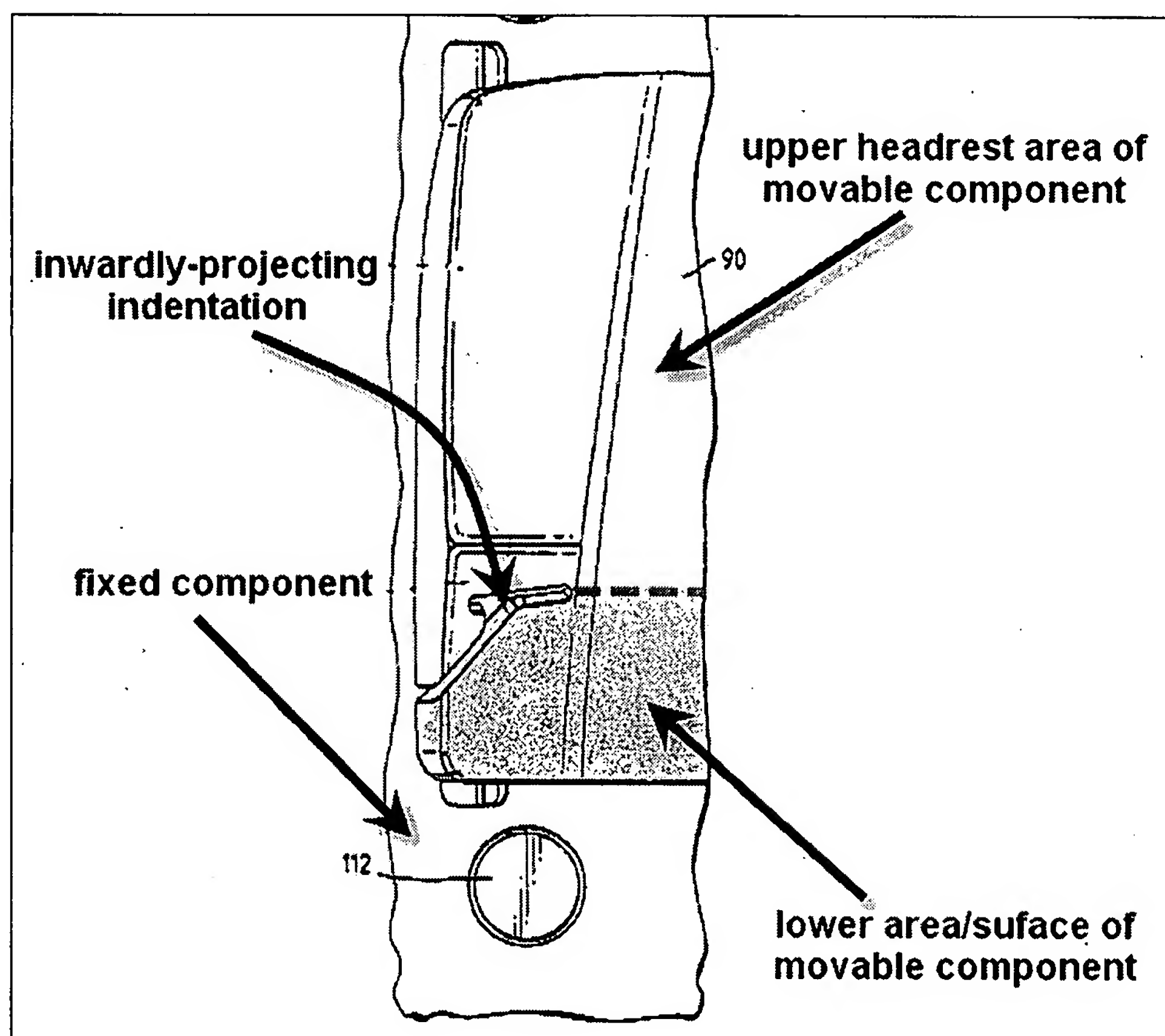


Diagram A - Annotated Figure 8 of Burleigh et al.

Kassai et al. show a car seat similar to that of Burleigh et al. wherein the car seat has a seat member 100 (see Fig. 1), a back member 200, a fixed component (see Fig. 3) of the back member, and a movable component 251,253 of the back member including an upper headrest area 251 with forward extending wings 210 and a lower area 253 separated from the upper headrest area by a pair of fixed sized laterally and inwardly-projecting indentations 252 (see Fig. 5) that extend into a middle section of the movable component and accommodating an automobile shoulder belt. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the car seat of Burleigh et al. such that the pair of indentations of the movable component's lower area are fixed sized laterally and inwardly-projecting indentations wherein the indentations extend into the middle section of the movable component and accommodate an automobile shoulder belt through one of the indentations, such as the car seat disclosed by Kassai et al. One would have been motivated to make such a modification in view of the suggestion in Kassai et al. slits in the back member receive a seat belt while being separate from the wings which allows the car seat to have independently adjustable wings.

Claims 8, 20, and 30 recite "locking means," which fails to invoke 35 U.S.C. 112, sixth paragraph, because this recitation does not meet the three prong analysis set forth in MPEP § 2181.

With respect to claim 11 and 13-15, movement of the movable component 90 of Burleigh et al. relative to the fixed component 78 provides contiguous essentially parallel surface support for an occupant's back without increasing the size of the

Art Unit: 3636

indentations, the inner contour of the movable component mates and nests with an outer contour of the fixed component, and an outer contour of the movable component has a pair of raised surfaces for side support of the occupant.

4. Claims 9, 21, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burleigh et al. in view of Kassai et al. as applied to claims 1-5, 7, 8, 10-20, 22-27, 29, 30, 32, and 38-40 above, and further in view of U.S. Patent No. 6,135,553 to Lovie et al.

Burleigh et al., as modified, disclose a car seat that is basically the same as that recited in claims 9, 21, and 31 except that the lock lacks mating teeth and grooves, as recited in the claims. Lovie et al. show a car seat similar to that of Burleigh et al. wherein car seat has a fixed component 16 (see Fig. 2), a movable component 32,34 capable of movement from a retracted position to an extended position, and a locking mechanism with a track 44 (see Fig. 3) passing through the fixed component and including mating teeth 50,52 and grooves 54,56. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the car seat of Burleigh et al. such that the shoe parts and tracks configuration includes mating teeth and grooves, such as the car seat disclosed in Lovie et al. One would have been motivated to make such a modification in view of the suggestion in Lovie et al. that the mating teeth and grooves of the locking mechanism provides greater control of the height adjustment of the movable component and prevents unwanted movement of the movable component.

Response to Arguments

5. Applicant's arguments filed 18 May 2007 have been fully considered but they are not persuasive. With respect to Applicant's arguments regarding Burleigh et al.'s indentations of the movable component, these arguments were considered but are moot in view of the new ground(s) of rejection. Next, Applicant argues that Burleigh et al. does not have a lower area on the back member's movable component. See Diagram A above for Examiner's reasonable interpretation of Burleigh et al.'s movable component wherein the movable component has a lower area separated from the upper headrest area. In addition, Applicant argues Burleigh et al. cannot have a headrest width and a lower area width as being essentially the same. However, Diagram A clearly shows that the widths of the headrest area and the lower area are essentially the same.

With respect to Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of claims 9, 21, and 31 as being unpatentable over Burleigh, as modified, in view of Lovie et al., Applicant appears to be referring to the teaching of U.S. Patent No. 5,845,968 to Lovie. However, the rejection of claim 9, 21, and 31 in the Office Action mailed 30 November 2006, which is maintained herein, does not rely on the teachings of Lovie ('968) but relies on the teachings of Lovie et al. ('553). Therefore, these arguments are inapplicable and not persuasive.

With respect to Applicant's positions that (1) the indentations of the car seat of the instant application avoids twisting of the seat belt and (2) the back member configuration provides maximum spinal support, Examiner respectfully disagrees that

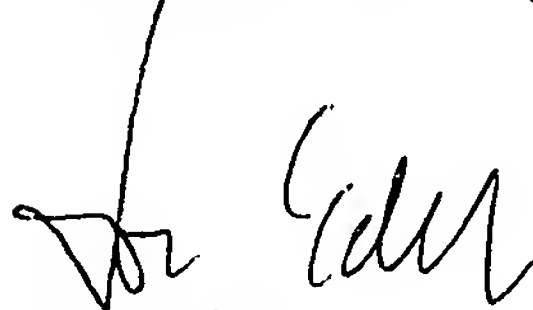
Art Unit: 3636

these features are inherent qualities of the car seat of the instant application. Applicant should submit evidence regarding these features if Applicant feels these features contribute the patentability of the present application.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell
May 21, 2007